

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JUAN VILLANUEVA,	)	
	)	Case No. 3:20-cv-121
Plaintiff,	)	
	)	JUDGE KIM R. GIBSON
v.	)	
	)	
DR. DANCHI, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

This matter is before Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636 and Local Civil Rule 72.

Plaintiff Juan Villanueva ("Plaintiff") is a Pennsylvania state prisoner currently incarcerated at the State Correctional Institution at Camp Hill. (ECF No. 40 at 4). On June 24, 2020, Plaintiff filed his complaint against Dr. Dancho and Melissa R. Hainsworth. (ECF No. 4). On December 21, 2020, the Court dismissed the complaint with prejudice and ordered that this case be closed. (ECF No. 22).

On October 7, 2022, Plaintiff moved to reopen this case. (ECF No. 40).<sup>1</sup> On October 19, 2022, Magistrate Judge Pesto filed a Report & Recommendation ("R&R") recommending that the Court deny Plaintiff's motion at ECF No. 40. (ECF No. 41). In this R&R, the Magistrate Judge notified Plaintiff that, pursuant to 28 U.S.C. § 636(b)(1), he would have fourteen days to file

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<sup>1</sup> This was not Plaintiff's first attempt to reopen this case. On May 23, 2022, Plaintiff filed a motion under Federal Rule of Civil Procedure 60(b) in which he asked the Court for an extension of sixty days to file an amended complaint. (ECF No. 29). Magistrate Judge Pesto recommended that the Court deny this motion, (ECF No. 30), and the Court did so on June 23, 2022. (ECF No. 32).

written objections to the R&R. (*Id.* at 2). As an unregistered ECF user, Plaintiff had until November 7, 2022, to file objections. (*See id.*).

On November 2, 2022, Plaintiff filed a document titled “Written Objections to Report and Recommendation.” (ECF No. 42). On January 11, 2023, the Court entered an order construing Plaintiff’s motion at ECF No. 42 as a motion for enlargement of time to file objections. (ECF No. 43). In this order, the Court held that the motion was deficient because it was filed by another inmate who had not properly appeared as Plaintiff’s counsel in this matter. (*Id.* at 1). The Court nevertheless acted sua sponte to grant Plaintiff until February 1, 2023, to file objections. (*Id.* at 1–2).

On January 26, 2023, Plaintiff filed a “Response to [the] Court’s Memorandum Order” — again by and through his jailhouse lawyer. (ECF No. 44). In this filing, Plaintiff requested appointment of counsel and moved to amend his complaint. (*Id.* at 1–3). On January 31, 2023, Magistrate Judge Pesto entered an order denying both requests. (ECF No. 46).

Plaintiff does not style his filing at ECF No. 44 as written objections, nor does this filing address the bases for denial offered by Magistrate Judge Pesto in his R&R at ECF No. 41. Assuming *arguendo* that the Court were to construe Plaintiff’s restatement of his claim’s merits as written objections, (*see* ECF No. 44 at 4–5), such objections would still be deficient because they were filed by and through another inmate who, by his own admission, is not licensed to practice law. (*Id.* at 3). The Court appreciates the efforts of “Next Friend” to assist an individual who would likely benefit from legal counsel, but it is nonetheless bound to enforce the “well established common law rule that non-attorneys cannot litigate the rights of others.” *Murray v. Supreme Court of South Carolina*, No. 3:12-CV-2384, 2012 WL 6052162, at \*1 (M.D. Pa. Dec. 5, 2012).

Because no objections to the R&R at ECF No. 41 were timely filed, the Court must review the R&R with “reasoned consideration,” which obligates the Court to afford only “some level of review to dispositive legal issues raised by the report[.]” *EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017). Having given this R&R reasoned consideration, the Court holds that it will adopt the R&R for its reasoning and conclusion. It accordingly denies Plaintiff’s motion to reopen this case at ECF No. 40. The following order is entered:

AND NOW, this 2<sup>nd</sup> day of February, 2023, it is **HEREBY ORDERED** that Magistrate Judge Pesto’s R&R at ECF No. 41 is adopted as the Opinion of the Court for its reasoning and conclusion.

**IT IS FURTHER ORDERED** that Plaintiff’s “Motion to Reopen Civil Action” at ECF No. 40 is **DENIED**.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read "Kim R. Gibson", is written over a horizontal line.

**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**